In the Supreme Court of the United States

OCTOBER TERM, 1937

No. 636

ELECTRIC BOND AND SHARE COMPANY ET AL.,
PETITIONERS

v.

SECURITIES AND EXCHANGE COMMISSION ET AL.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

MEMORANDUM FOR THE RESPONDENTS, SECURITIES AND EXCHANGE COMMISSION ET AL.

The respondents, the Securities and Exchange Commission and individual Government officers, join in petitioners' request for writ of certiorari. The case relates to the constitutionality of certain provisions of the Public Utility Holding Company Act of 1935 (c. 687, 49 Stat. 803) as applied to certain of the petitioners. The contentions of the Government regarding the proceedings in the District Court and the constitutional and jurisdictional issues involved have heretofore been outlined to this Court in a statement in support of peti-

tioners' previous request for certiorari, filed before the case had been heard on appeal by the United States Court of Appeals for the Second Circuit (*Electric Bond and Share Co.* v. *Securities and Exchange Commission,* No. 995, October Term, 1936, cert. den., June 1, 1937). Although the Government believes that the action of the Circuit Court of Appeals affirming the decree of the District Court was clearly correct, the Government believes that a review of the proceedings by this Court is desirable in the public interest. Such review will resolve a conflict between the decision of the Circuit Court of Appeals for the Second Circuit and an earlier decision by the Circuit Court of Appeals for the Fourth Circuit in *Burco, Inc.* v. *Whitworth,* 81 F. (2d) 721 (C. C. A. 4th, 1936), cert. den., 297 U. S. 724.

In these circumstances it is a matter of urgent public interest that this Court grant the petition for certiorari.

Respectfully submitted.

STANLEY REED,
Solicitor General.

DECEMBER 1937.

U. S. GOVERNMENT PRINTING OFFICE: 1937